



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

NOV 25 2015

CERTIFIED MAIL 7009 1680 0000 7648 7948
RETURN RECEIPT REQUESTED

Mr. Jason Siefert
Health and Safety Manager
Astro Pak Corporation
7041 Girls School Avenue
Indianapolis, Indiana 46241

Re: Notice of Violation
Compliance Evaluation Inspection
INR000128652

Dear Mr. Siefert:

On August 5, 2015, a representative of the U.S. Environmental Protection Agency inspected the Astro Pak Corporation facility located in Indianapolis, Indiana (Astro Pak). As a large quantity generator of hazardous waste, Astro Pak is subject to the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq. (RCRA). The purpose of the inspection was to evaluate Astro Pak's compliance with certain provisions of RCRA and its implementing regulations related to the generation, treatment and storage of hazardous waste. A copy of the inspection report is enclosed for your reference.

Based on information provided by Astro Pak, EPA's review of records pertaining to Astro Pak and the inspector's observations, EPA has determined that Astro Pak has unlawfully stored hazardous waste without a permit or interim status as a result of Astro Pak's failure to comply with certain conditions for a permit exemption under 329 Indiana Administrative Code § 3.1-7-1 and 40 Code of Federal Regulations § 262.34(a)-(c). EPA has identified the permit exemption conditions and other regulations with which Astro Pak was out of compliance at the time of the inspection in paragraphs 1 and 2, below. EPA has also determined that Astro Pak violated RCRA requirements related to used oil and universal waste, as described in paragraphs 3 - 5, below.

Please note that the Indiana Administrative Code incorporates by reference, *inter alia*, 40 CFR Parts 262, 265, and 270. See 329 IAC 3.1-7-1, 3.1-10-1, and 3.1-13-1. Therefore, unless otherwise noted, this Notice of Violation only cites to the Code of Federal Regulations.

STORAGE OF HAZARDOUS WASTE WITHOUT A PERMIT OR INTERIM STATUS

At the time of the inspection, Astro Pak was out of compliance with the following large quantity generator permit exemption conditions:

1. Training Program Requirements: Under 40 CFR §§ 262.34(a)(4) and 265.16(a), a large quantity generator of hazardous waste must have a program of classroom instruction or on-the-job training that teaches facility personnel to perform their duties in a way that ensures the facility's compliance with requirements of RCRA. This program must be directed by a person trained in hazardous waste management procedures, and must include instruction that teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed. Also, Facility personnel must successfully complete this training program within six months after the date of their employment or assignment to a facility or to a new position at a facility, and must take part in an annual review of this initial training thereafter. *See* 40 CFR §§ 262.34(a)(4) and 265.16(b) and (c).

With respect to this training program, a large quantity generator must maintain the following documents and records at its facility:

- 1) The job title for each position at the facility related to hazardous waste management and the name of the employee filling each job;
- 2) A written job description for each position at the facility related to hazardous waste management;
- 3) A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position at the facility related to hazardous waste management; and
- 4) Records that document that the training or job experience described above has been given to and completed by facility personnel. *See* 40 CFR §§ 262.34(a)(4) and 265.16(d).

At the time of the inspection, Astro Pak did not have and was unable to provide in response to a request a list of each position at the facility related to hazardous waste management and the name of the employee filling such position(s).

At the time of the inspection, Astro Pak did not have and was unable to provide in response to a request a written description for each position related to hazardous waste management at the facility.

At the time of the inspection, Astro Pak did not have and was unable to provide in response to a request a written description of the type and amount of introductory and continuing training given to employees with duties related to hazardous waste management.

2. Contingency Plan Requirements: Under 40 CFR §§ 262.34(a)(4) and 265.51(a), a large quantity generator of hazardous waste must have a contingency plan for the facility.

With respect to this contingency plan, the plan must:

- a. Describe the actions facility personnel must take in response to fires, explosions, or any planned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the facility.
- b. Describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services.
- c. List names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator, and this list must be up to date.
- d. Include a list of all emergency equipment at the facility. This list must be kept up to date, and include the location and a physical description of each item on the list, and a brief outline of its capability.
- e. Include an evacuation plan that describes signals to begin evacuation, evacuation routes, and alternative evacuation routes. *See* 40 CFR §§ 262.34(a)(4) and 265.52(a) and (c)-(f).
- f. A copy of the contingency plan must be maintained at the facility. *See* 40 CFR §§ 262.34(a)(4) and 265.53(a).

At the time of the inspection, Astro Pak did not have and was unable to provide its contingency plan in response to a request.

By failing to comply with the conditions for a permit exemption, above, Astro Pak became an operator of a hazardous waste storage facility, and was required to obtain an Indiana hazardous waste storage permit. Astro Pak failed to apply for such a permit. Astro Pak's failure to apply for and obtain a hazardous waste storage permit violated the requirements of 40 CFR § 270.1(c). Any failure to comply with a permit exemption condition incorporated from 40 CFR Part 265 is also an independent violation of the corresponding TSD requirement.

At this time, EPA is not requiring Astro Pak to apply for an Indiana hazardous waste storage permit so long as it immediately establishes compliance with the conditions for a permit exemption outlined in paragraphs 1 and 2, above.

OTHER VIOLATIONS

Astro Pak violated the following generator requirements:

3. Manifest Recordkeeping Requirement: Under 40 CFR § 262.40(a), a generator must keep a signed copy from the designated facility as a record for at least three years from the date the waste was accepted by the initial transporter.

At the time of the inspection, Astro Pak was unable to provide in response to a request the signed copy from the designated facility for manifests 010712147JJJ and 000444269WAS, both from the year 2012.

4. Biennial Report Recordkeeping Requirement: Under 40 CFR § 262.40(b), a generator must keep a copy of each Biennial Report for a period of at least three years from the due date of the report.

At the time of the inspection, Astro Pak was unable to provide in response to a request copies of its Biennial Report(s).

5. Used Oil Requirement: Under 329 IAC 13-4-3(d)(1) [40 CFR § 279.22(c)(1)], containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil".

At the time of the inspection, used oil was present in a container that was not marked with the words, "Used Oil."

Concerns

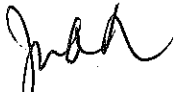
EPA also has three concerns to bring to your attention.

- a. Used Bulbs: At the time of the inspection, a discussion with Astro Pak representatives indicated that employees of Astro Pak place used bulbs in the solid waste trash. EPA brings to your attention the probability that "green tipped" bulbs can fail TCLP for mercury. Astro Pak must make a hazardous waste determination on all used bulbs destined for disposal, and manage them in accordance with the applicable solid, hazardous, or universal waste regulations.
- b. Aerosol Cans: At the time of the inspection, a discussion with Astro Pak representatives indicated that employees of Astro Pak placed used aerosol cans in the solid waste trash. Used aerosol cans may be a characteristic hazardous waste because of the contents of the can, even when the can appears to be empty through normal use. Astro Pak must make a hazardous waste determination on all used aerosol cans that are destined for disposal, and manage them in accordance with the applicable regulations.
- c. Containers without Labels or Markings Identifying the Contents: At the time of the inspection, there were containers in storage without labels or markings describing the contents of the containers. EPA recommends that Astro Pak mark or label all containers with their respective contents.

According to Section 3008(a) of RCRA, EPA may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified time period, or both. Although this letter is not such an order or a request for information under Section 3007 of RCRA, 42 U.S.C. § 6927, we request that you submit a response in writing to us no later than 30 days after receipt of this letter documenting the actions, if any, which you have taken since the inspection to establish compliance with the above conditions; and manifest, used oil, and universal waste requirements. You should submit your response to Daniel Chachakis, U.S. EPA, Region 5, 77 West Jackson Boulevard, LR-8J, Chicago, Illinois 60604.

If you have any questions regarding this letter, please contact Daniel Chachakis, of my staff, at (312) 886-9871 or at chachakis.daniel@epa.gov.

Sincerely,



sol Gary J. Victorine, Chief
RCRA Branch

Enclosure

cc: Nancy Johnson, IDEM, njohnson@idem.in.gov
Eaton Weiler, EPA, weiler.eaton@epa.gov